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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,467	03/26/2004	Sejal Kamani	3239P015C	9340
8791 7590 05/29/2008 BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040				
EXAMINER				
PHAN, TRI H				
ART UNIT		PAPER NUMBER		
2616				
MAIL DATE		DELIVERY MODE		
05/29/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/810,467

Applicant(s)

KAMANI ET AL.

Examiner

TRI H. PHAN

Art Unit

2616

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-11, and 14-28 is/are allowed.
- 6) ☐ Claim(s) 1 and 12 is/are rejected.
- 7) ☐ Claim(s) 2 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Paper No(s)/Mail Date _____
- 6) ☐ Other: _____

DETAILED ACTION

Response to Communication(s)

1. This office action is in response to the RCE filed on March 26th, 2004. Claims 1-28 are now pending in the application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Voit et al.** (U.S.6,870,827; hereinafter refer as '**Voit**') in view of **Farris et al.** (U.S.6,574,216; hereinafter refer as '**Farris**').

- In regard to claims 1 and 12, **Voit** discloses the *system and method for connecting a telephone call from a user ('user 12' in fig. 3) through one of a plurality of networks where one of the plurality of networks is an internet protocol network ('PSTN 10' and 'Internet 50' in fig.*

3), comprising:

determining a destination of the telephone call (for example see steps 200-202 in fig. 6a);

setting a first factor according to a predetermined minimum quality of service level requirement based on the destination of the telephone call (for example see col. 3, line 66

through col. 4, line 14; col. 8, lines 4-17; wherein the quality of service at the time of the call, e.g. “*first factor*”, is according to predefined threshold level of service of the user, e.g. “*predetermined minimum quality of service level requirement*”); **Voit** fails to explicitly disclose about “*receiving a second factor*” responsive to the QoS by the IP network, to switch the call between PSTN or Internet. However, such limitation lacks thereof from **Voit** reference is well known and disclosed by **Farris**.

In an analogous art, **Farris** discloses the apparatus and method for monitoring data network performance quality (for example see figs 4-5; steps 206-208 in fig. 6A; col. 9, line 66 through col. 10, line 24; wherein the monitored performance level is the received “*second factor*”) to switch call between PSTN and Internet based on the (for example see steps 210 or 212 in fig. 6a; for example see col. 10, line 44 through col. 11, line 15).

Thus, it would have been obvious to those skilled in the art at the time of the invention was made to incorporate **Farris**'s monitoring network performance at the time of the call for switching between PSTN and IP network into place of **Voit**'s system to arrive the claimed invention with a motivation to accommodate the network performance change at the time of the call for switching call between networks, e.g. PSTN and IP networks.

Response to Amendment/Arguments

4. Applicant's arguments filed on March 26th, 2004 (see REMARKS, pages 2-3) with respect to claims 1, 3, 17, 19 and 33-38 have been considered, but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

5. Claims 2 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 3-11, 14-28 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Claims 3-11 and 14-22 are allowed as indicated in previous office action of parent case.

Regarding claims 23-28, many references in the art disclose the system and method for switching call between different network protocols according to the predetermined quality of service and network performance at the time of the call. But no prior art reference utilizes the setting of minimum transmission/reception quality of service level, e.g. "first transmission/reception factor from the user" to comparing with the responsive transmission/reception quality of service provided by the internet protocol network, e.g. "second transmission/reception factor" for switching the telephone call between other networks and IP network, in a manner as recited in the claimed invention 23 and 26.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri H. Phan, whose telephone number is (571) 272-3074. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi H. Pham can be reached on (571) 272-3179.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(571) 273-8300

Hand-delivered responses should be brought to Randolph Building, 401 Dulany Street, Alexandria, VA 22314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office, whose telephone number is (571) 272-2600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).